

# **A COMPARATIVE STUDY ON THE POWERS OF THE SULTAN AND THE YANG DIPERTUA NEGERI IN DISMISSING THE MENTERI BESAR AND CHIEF MINISTER RESPECTIVELY**

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## ABSTRACT

This study examines about the constitutional crisis which happen in Perak and Sarawak through cases of *Dato' Seri Nizar Jamaluddin v Dato' Seri Zambry* and *Stephen Kalong Ningkan v Penghulu Tawi Sli* where the power of Sultan and Yang Dipertua Negeri were question in appointing and dismissing Menteri Besar and Chief Minister. By examining these cases, it reveals the standards that have been put forward out by court in sending their judgement. Plus, it explains the application of article in the state constitution.

The core of the problem lies when there is no provision in state constitution that stated that Sultan and Yang Dipertua Negeri can dismiss Menteri Besar and Chief Minister. Inferences were made that there is loophole in State Constitution regarding this matter. This paper project concentrates on the determining factors that are taken into consideration by the judges in their judgement is concluded. Furthermore, this project paper also provides some recommendations and suggestions that can be considered in order to curb the problem.

Therefore, it comes to the conclusion that every state constitution needs to be reviewed regarding the appointment and dismissing of Menteri Besar and Chief Minister so that it would not cause more crisis in state and to deal with the critiques made over the years.

## **TABLE OF CONTENTS**

Abstract	ii
Contents	iii
List of Cases	vi

### **CHAPTER ONE: INTRODUCTION TO CONSTITUTIONAL**

1.0	Introduction	1
1.1	Problem Statement	2
1.2	Objectives of the study	3
1.3	Literature review	3
1.4	Research Methodology	5
1.5	Scope and limitation	6
1.6	Significance of study	6
1.7	Conclusion	7

### **CHAPTER TWO: HISTORICAL BACKGROUND OF MALAYA**

2.0	Introduction	8
2.1	The power of the Sultan and Residents during British colonisation	9
2.2	Sarawak in the early days	12

### **CHAPTER THREE: THE EMERGENCE OF A NEW GOVERNMENT SYSTEM AFTER THE COLONISATION PERIOD**

3.0	Introduction	16
3.1	Federation of Malaya 1948 – 1957	18
3.2	Sarawak gaining independence and friction in the state administration	21

### **CHAPTER FOUR: THE PERAK CONSTITUTIONAL CRISIS**

4.0	Introduction	24
4.1	The beginning of Stephen Kalong Ningkan dismissal	29
4.1.1	The first proceeding in Kuching High Court	30
4.1.2	Summary in the two respective cases	33

### **CHAPTER FIVE: COMPARISON BETWEEN CONSTITUTIONAL CRISIS IN PERAK AND SARAWAK**

5.0	Introduction	35
5.1	Conflict of political parties	36
5.1.1	Provision of state constitution	37

# CHAPTER ONE: INTRODUCTION TO CONSTITUTIONAL

## 1.0 INTRODUCTION

Professor Dr Shad Saleem Faruqi in his book *Document of Destiny* once said “In all parliamentary democracies today the Premier has become the keystone of the constitutional arch. He is likened to an elected monarch and a chief executive is more powerful than the American President”.<sup>1</sup> Likewise in Malaysia the Prime Minister has the main role as the head of government of the country. The same idea goes to the state level whereas the Menteri Besar or Ketua Menteri is the head of the state. This primary role must first win the general election in his constituency which is held every five years. Once he won the election then he will be part of legislature either at federal level or state level. As Malaysia practice Westminster system which is the executive is part of the legislature, therefore Menteri Besar or Ketua menteri is chosen by majority of State Legislative Assembly (SLA). They only nominate the premier however the appointment of the Menteri Besar or Ketua Menteri is still made by the rulers of the state for instance Sultan or Yang Di Pertuan Negeri. All of these appointments are guided by the state constitutions and not all of them have total similarity in term of requirement in appointing Menteri Besar or Ketua Menteri but mostly have the same idea on the point that Menteri Besar or Ketua Menteri must be somebody from the eye of his royal highness, command the confidence of majority of State Legislative Assembly. On the matter of dismissal, all state constitutions provide that only if Menteri Besar or Ketua Menteri ceases the confidence of State Legislative Assembly, then he is required to resign from his office.

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<sup>1</sup> Professor Dr Shad Saleem Faruqi, *Document of Destiny*. (The Star Publication: Petaling Jaya 2006).